

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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WILLIE NASH,

Plaintiff,

v.

RICHARD NYBAKKE and  
JOHN DOE,

Defendants.

ORDER

17-cv-923-wmc

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*Pro se* plaintiff Willie Nash is proceeding in this lawsuit against defendants, Captain Nybakke and John Doe, on a claim related to his right to visitation from his mother. There are two issues the court addresses in this order.

*First*, in the preliminary pretrial conference order, the court set September 27, 2019, as Nash's deadline to amend his complaint to identify the Doe defendant. (8/6/19 Order (dkt. #24) 4.) Since Nash has failed to identify the Doe defendant, the court is dismissing that defendant.

*Second*, on October 15, 2019, defendant Nybakke filed a motion for summary judgment for Nash's failure to exhaust administrative remedies. (Dkt. #25.) The court set November 5, 2019, as plaintiff's deadline to respond to that motion, but the notice of that briefing was returned to the court as undeliverable. Defendant Nybakke now has filed a motion to dismiss for Nash's failure to prosecute, representing that while he served copies of his motion for summary judgment on plaintiff, those materials were returned as undeliverable on October 29, 2019. (Dkt. ##29, 30.) Nash's November 5 deadline has passed, and Nash has not responded to either of Nybakke's motions or contacted the court seeking an extension of that deadline. The court remains unaware of Nash's contact information.

Nash's failure to identify the Doe defendant, provide updated contact information, respond to either motion, or to take any other action indicating that he is preparing an opposition to either motion, suggest that he may have abandoned this lawsuit. Accordingly, the court will give Nash one more chance to respond to defendant's motions: he now has until **December 5, 2019**, to file an opposition to defendant's motion for summary judgment and the motion to dismiss for lack of prosecution. His failure to meet this deadline will cause the court to grant defendant's motions as unopposed and dismiss this lawsuit with prejudice for failure to prosecute.

#### ORDER

IT IS ORDERED that:

- 1) The Doe defendant is DISMISSED for plaintiff Willie Nash's failure to amend his complaint identifying that defendant by September 27, 2019.
- 2) Plaintiff Willie Nash may have until **December 5, 2019**, to file a response to defendant's motion for summary judgment and motion to dismiss. **If Nash does not respond by that date, the court will dismiss his claims with prejudice for failure to prosecute.**

Dated this 14th day of November, 2019.

BY THE COURT:

/s/

WILLIAM M. CONLEY  
District Judge